

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

FIFTY-EIGHTH LEGISLATIVE DAY
TUESDAY, MARCH 4, 2003

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10 a.m.

Roll call showed all members present except Senator McWilliams, absent and formally excused by the Chair; and Senators Burkett, Calabretta, Cameron, Marley, Pearce, Schroeder, and Stennett, absent and excused.

Prayer was offered by Acting Chaplain Bryan Fischer, Pastor, Community Church of the Valley, Boise, Idaho.

The Pledge of Allegiance was led by Jovani Bigelow, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Cameron and Schroeder were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 3, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Stennett was recorded present at this order of business.

SCR 109

BY STATE AFFAIRS COMMITTEE A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH EXCEPTIONS, AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Board of Medicine relating to the licensure of physician assistants are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho State Board of Pharmacy relating to prescription drugs are not consistent with legislative intent; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2003 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 22.01.03, Rules of the Idaho State Board of Medicine, relating to the licensure of physician assistants, adopted as pending fee rules under Docket Number 22-0103-0201, the entire pending fee docket; and

IDAPA 27.01.01, Rules of the Idaho State Board of Pharmacy relating to prescription drugs, adopted as pending fee rules under Docket Number 27-0101-0201, the entire pending fee docket.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 22.01.03, Rules of the Idaho State Board of Medicine, relating to the licensure of physician assistants, adopted as pending fee rules under Docket Number 22-0103-0201, the entire pending fee docket; and IDAPA 27.01.01, Rules of the Idaho State Board of Pharmacy relating to prescription drugs, adopted as pending fee rules under Docket Number 27-0101-0201, the entire pending fee docket, be, and the same are hereby rejected and not approved and thereby pursuant to Sections 67-5291 and 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that rule provisions imposing fees or charges that were not submitted through the Office of Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

SCR 110
BY STATE AFFAIRS COMMITTEE
A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE, WITH AN EXCEPTION.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of Rules Coordinator for review during the 2003 legislative session, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are approved, with the exception of the following enumerated temporary rule section:

IDAPA 16.03.09, the entire rulemaking docket, related to governing the medical assistance program and concerning dental services, denturist policy guidelines, denturist procedure codes, PWC codes, covered emergency dental codes for adults, and dental prior authorization, rules of the Department of Health and Welfare, adopted as temporary rules under Docket Number 16-0309-0216.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the Second Regular Session of the Fifty-seventh Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which are excepted from approval hereunder or which were not submitted to the Legislature for review during the 2003 legislative session shall expire by operation of statute upon adjournment of the First Regular Session of the Fifty-seventh Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

SCR 111
BY STATE AFFAIRS COMMITTEE
A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE NEED TO PREVENT DISCRIMINATORY TREATMENT BY OTHER STATES' INSURANCE REGULATORS OF LICENSED AND

APPROVED IDAHO DOMICILED INSURANCE COMPANIES AND REAFFIRMING THE POLICY AND WISDOM OF EXISTING RETALIATORY INSURANCE PROVISIONS TO ENSURE THAT DOMICILIARY STATES PROVIDE FAIR AND EQUAL TREATMENT OF IDAHO DOMICILED INSURANCE COMPANIES WHO APPLY FOR OR TRANSACT BUSINESS IN SUCH DOMICILIARY STATES IN ORDER TO FULLY PROTECT IDAHO INSURANCE CONSUMERS AND IDAHO DOMESTIC INSURANCE COMPANIES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the state of Idaho will benefit by supporting growth of domestic insurance companies that conduct business in Idaho and other states; and

WHEREAS, the application of onerous and discriminatory requirements upon Idaho domiciled insurance companies by other states impedes the growth of Idaho insurance companies prepared to sell insurance in other states and is in derision of Idaho's retaliatory insurance law, Section 41-340, Idaho Code; and

WHEREAS, the imposition by other states of more stringent requirements upon Idaho companies by such states than are applied to their domestic insurance companies that do business in Idaho discriminates against Idaho domestic insurance companies and is contrary to the best interests of Idaho insurance consumers; and

WHEREAS, other states which have domestic insurance companies that sell a substantial amount of insurance in Idaho, such as California and Illinois, should not discriminate against Idaho domestic insurance companies by imposing greater requirements on Idaho companies that apply for licensure or transact business in those states; and

WHEREAS, in the event other states require Idaho domestic insurance companies to comply with any requirement under the theory of providing greater protection for their consumers than those states require of their domestic insurance companies, then Idaho should apply those same requirements to all foreign insurance companies domiciled in those states imposing more stringent requirements, regardless of whether the foreign company is a new applicant for Idaho licensure or is an authorized insurer selling to customers in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature reaffirms the policy and wisdom of the retaliatory insurance provisions contained in Section 41-340(3), Idaho Code, and urges the beneficial interpretation and strict enforcement and application of such retaliatory insurance provisions with regard to foreign domiciled insurance companies that transact insurance business in the state of Idaho to ensure that their domiciliary states provide fair and equal treatment of Idaho domiciled insurance companies who apply for or transact business in such domiciliary states in order to fully protect Idaho insurance consumers and Idaho domestic insurance companies.

SCR 112
BY STATE AFFAIRS COMMITTEE
A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY THE BEST METHODS TO IDENTIFY AND DETERMINE THE

NUMBER OF UNSCHOOLLED CHILDREN IN IDAHO AND RECOMMEND STEPS TO INITIATE OUTREACH STRATEGIES TO BRING THESE CHILDREN INTO RECOGNIZED SCHOOL SETTINGS.

March 4, 2003

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the state of Idaho has a constitutional duty to maintain an educated citizenry; and

WHEREAS, the Idaho Department of Corrections (IDOC) has found that nearly one-half of all inmates arriving at IDOC prisons do not have a high school diploma nor have they completed a high school equivalency program; and

WHEREAS, the state of Idaho has no method or process to identify unschooled children; and

WHEREAS, Idaho does not know the prevalence or incidence of unschooled children throughout the state and has a responsibility to determine how many children are unschooled and why they are not receiving schooling in some form; and

WHEREAS, there exist numerous laws, rules, procedures and practices that require all children between the ages of 6 and 16 years to be schooled and receive an education.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the best methods to identify and determine the number of unschooled children in Idaho and to recommend steps to initiate outreach strategies to bring unschooled children into one of Idaho's recognized school settings. The Legislative Council shall determine the number of legislators and members from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED upon its formation the committee shall outline and adopt principles guiding the study to protect the rights of children and families of children being schooled but not present in public, private or charter schools.

BE IT FURTHER RESOLVED the committee shall seek to identify all roadblocks to identification and outreach to all unschooled children and address appropriate changes to facilitate and promote schooling for all children.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-seventh Idaho Legislature.

SCR 109, SCR 110, SCR 111, and SCR 112 were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Burkett, Calabretta, and Marley were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that **S 1138** has been correctly printed.

DARRINGTON, Chairman

S 1138 was referred to the Judiciary and Rules Committee.

March 3, 2003

The JUDICIARY AND RULES Committee reports that **S 1026** has been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1026** and ordered it transmitted to the House for the signature of the Speaker.

March 3, 2003

The AGRICULTURAL AFFAIRS Committee reports out **H 105** with the recommendation that it do pass, and with the recommendation that it be placed on the Consent Calendar.

WILLIAMS, Chairman

H 105 was filed for second reading.

March 3, 2003

The RESOURCES AND ENVIRONMENT Committee reports out **HJM 2, HCR 12, H 36, H 38, and H 40** with the recommendation that they do pass.

NOH, Chairman

HJM 2 and HCR 12 were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 36, H 38, and H 40 were filed for second reading.

March 3, 2003

The STATE AFFAIRS Committee reports out **HJM 3 and H 259** with the recommendation that they do pass.

SORENSEN, Chairman

HJM 3 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 259 was filed for second reading.

March 4, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports out **H 195** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

BUNDERSON, Chairman

There being no objection, **H 195** was referred to the Fourteenth Order of Business, General Calendar.

March 4, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports out **H 233** and **H 76** with the recommendation that they do pass.

BUNDERSON, Chairman

H 233 and **H 76** were filed for second reading.

March 4, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Lisa M. Godwin to the Idaho State Board of Tax Appeals, term to expire June 30, 2005.

BUNDERSON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 3, 2003

Mr. President:

I transmit herewith **H 256**, as amended, **H 257**, **H 238**, as amended, **H 211**, as amended, **H 209**, as amended, **H 66**, as amended, **H 64**, as amended, **H 174**, as amended, and **H 206**, as amended, and I return herewith **S 1071**, **S 1054**, **S 1055**, and **SJM 101**, which have passed the House.

JUKER, Chief Clerk

H 256, as amended, **H 257**, **H 238**, as amended, **H 211**, as amended, **H 209**, as amended, **H 66**, as amended, **H 64**, as amended, **H 174**, as amended, and **H 206**, as amended, were filed for first reading.

S 1071, **S 1054**, **S 1055**, and **SJM 101** were referred to the Judiciary and Rules Committee for enrolling.

March 3, 2003

Mr. President:

I transmit herewith Enrolled **HCR 16** and **H 147** for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **HCR 16** and **H 147** and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

On request by Senator Davis, granted by unanimous consent, **SCR 106**, having been held, retained its place on the calendar for Friday, March 7, 2003.

The President Pro Tempore announced that **HCR 23**, having been held, was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Richardson, seconded by Senator Stennett, **HCR 23** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President Pro Tempore announced that **SCR 107**, having been held, was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Brandt, seconded by Senator Burkett, **SCR 107** was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The President Pro Tempore announced that **SCR 108**, having been held, was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Burkett, seconded by Senator Brandt, **SCR 108** was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The President Pro Tempore announced the Education Committee report relative to the Gubernatorial appointment of Milford Terrell was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Andreason, seconded by Senator Malepeai, the Gubernatorial appointment of Milford Terrell as a member of the Idaho State Board of Education was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President Pro Tempore announced the Resources and Environment Committee report, relative to the Gubernatorial appointments of Jerry Rigby, Gary Chamberlain, Robert Graham, and D. Richard Wyatt, was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Davis, seconded by Senator Stennett, the Gubernatorial appointment of Jerry Rigby as a member of the Idaho Water Resource Board was confirmed by voice vote.

On motion by Senator Burtenshaw, seconded by Senator Stennett, the Gubernatorial appointment of Gary Chamberlain as a member of the Idaho Water Resource Board was confirmed by voice vote.

On motion by Senator Keough, seconded by Senator Stennett, the Gubernatorial appointment of Robert Graham as a member of the Idaho Water Resource Board was confirmed by voice vote.

On motion by Senator Stegner, seconded by Senator Stennett, the Gubernatorial appointment of D. Richard Wyatt as a member of the Idaho Water Resource Board was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare letters of the Gubernatorial appointment confirmations for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President Pro Tempore announced that **HCR 18** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Noh, seconded by Senator Stennett, **HCR 18** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President Pro Tempore announced that **HCR 19** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Pearce, seconded by Senator Stennett, **HCR 19** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1139 BY STATE AFFAIRS COMMITTEE AN ACT

RELATING TO THE JOINT FINANCE-APPROPRIATIONS COMMITTEE; AMENDING SECTION 67-432, IDAHO CODE, TO PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE SHALL APPOINT A MEMBER TO FILL A SENATE VACANCY WHICH OCCURS ON THE COMMITTEE DURING THE INTERIM WHEN THE LEGISLATURE IS NOT IN SESSION.

S 1139 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 256, as amended, and **H 257**, by Ways and Means Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 238, as amended, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 211, as amended, and **H 209**, as amended, by Resources and Conservation Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

H 66, as amended, and **H 64**, as amended, by Mr. Speaker, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

H 174, as amended, by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

H 206, as amended, by State Affairs Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 216, by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading.

H 253, by State Affairs Committee, was read the second time at length and filed for third reading.

H 56, by Mr. Speaker, was read the second time at length and filed for third reading.

H 124, by Resources and Conservation Committee, was read the second time at length and filed for third reading.

S 1089, by Agricultural Affairs Committee, was read the second time at length and filed for third reading.

H 106, **H 108**, **H 109**, and **H 157**, by Agricultural Affairs Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

The President Pro Tempore called Senator Little to the Chair.

H 22, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brandt arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--McWilliams. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 22** passed, title was approved, and the bill ordered returned to the House.

H 162 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--McWilliams. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 162** passed, title was approved, and the bill ordered returned to the House.

H 164 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--McWilliams. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 164** passed, title was approved, and the bill ordered returned to the House.

H 165 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stennett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--McWilliams. Total - 1.

Total - 35.

Whereupon the Acting President declared **H 165** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The Acting President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **H 113**, **S 1060**, **S 1102**, **S 1010**, **S 1130**, **H 208**, **S 1108**, as amended, and **H 195** without recommendation, amended as follows:

SENATE AMENDMENT TO H 113

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 33, delete "The" and insert: "Except as provided in subsections (7), (8) and (9) of this section, tThe"; and following line 37, insert:

"(7) Pursuant to chapter 1, title 21, Idaho Code, subsection (6) of this section shall not apply to all aerial activity related to the search for lost aircraft and airmen which shall be under the direction and supervision of the director of the Idaho transportation department and coordinated with the division of aeronautics.

(8) Nothing in subsection (6) of this section shall apply to search and rescue operations within the incorporated limits of any city.

(9) Nothing in subsection (6) of this section shall apply to the rescue of entrapped or injured persons where their location is known to be within a fire district, where the fire district performs such service."

CORRECTION TO TITLE

On page 1, in line 7, following "COUNTY" insert: ", TO PROVIDE RESPONSIBILITY FOR THE SEARCH FOR LOST AIRCRAFT AND AIRMEN, TO PROVIDE FOR SEARCH AND RESCUE OPERATIONS WITHIN THE INCORPORATED LIMITS OF ANY CITY AND TO PROVIDE FOR RESCUE OF ENTRAPPED OR INJURED PERSONS WITHIN A FIRE DISTRICT".

SENATE AMENDMENT TO S 1060
AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 20, following "with the" insert: "express".

CORRECTION TO TITLE

On page 1, in line 5, following "GIVEN" insert: "EXPRESS".

SENATE AMENDMENT TO S 1102
AMENDMENTS TO SECTION 6

On page 6 of the printed bill, in line 10, delete "may" and insert: "shall"; and delete lines 21 and 22 and insert: "or authorized by it."

SENATE AMENDMENT TO S 1010
AMENDMENT TO THE BILL

On page 1 of the printed bill, following line 27 insert:
 "SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after June 30, 2009."

CORRECTION TO TITLE

On page 1, in line 6, following "RESPONSIBILITY" insert: "; AND TO PROVIDE A SUNSET CLAUSE".

SENATE AMENDMENT TO S 1130
AMENDMENT TO THE BILL

On page 2, following line 29 insert:
 "SECTION 2. That Section 59-1603, Idaho Code, be, and the same is hereby amended to read as follows:

59-1603. CONFORMITY WITH CLASSIFIED POSITIONS. (1) To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. Temporary employees and agricultural inspectors referred to in subsections (n) and (p) of section 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided in section 59-1605, Idaho Code, vacation leave provided in section 59-1606, Idaho Code, nor holiday pay defined in subsection (145) of section 67-5302, Idaho Code, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the retirement board. Vacation and sick leave accruals, but not holiday pay, shall be awarded retroactively, if necessary, to the date such employees become eligible for retirement system membership.

(2) To the extent possible, each nonclassified position in the legislative department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications.

(3) The supreme court shall determine the schedules of salary and compensation for all officers and employees of the judicial department which are not otherwise fixed by law. To the extent possible, the supreme court shall adopt schedules which are compatible with the state's accounting system. The judicial department may also maintain personnel records and files under such system as is ordered by the supreme court.

(4) The state board of education shall determine the schedules of salary and compensation, and prescribe policies for

overtime and compensatory time off from duty, for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code, and which are not otherwise fixed by law. To the extent possible, the state board of education shall adopt schedules and policies which are compatible with the state's accounting system. The state board of education may also maintain personnel records and files under a system of its own, if approved by the state controller.

(5) Members of the legislature, the lieutenant governor, other officers whose salaries are fixed by law, and members of part-time boards, commissions and committees shall be paid according to law.

(6) Any schedule of salary and compensation, if not the schedule prescribed by section 67-5309C(a), Idaho Code, must be approved by the appointing authority and be communicated to the state controller in writing at least thirty (30) days in advance of the effective date of the schedule.

(7) In addition to salary increases provided by any compensation schedule adopted pursuant to paragraph (6) of this section, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted a lump sum bonus not to exceed one thousand dollars (\$1,000) in any given fiscal year based upon an affirmative certification of meritorious service. Exceptions to the one thousand dollar (\$1,000) limit provided in this section may be granted if approved in advance by the state board of examiners.

(8) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees holding permanent status, except those who are elected officials or whose salaries are fixed by law, may be granted a lump sum bonus not to exceed one thousand dollars (\$1,000) in any given fiscal year based upon suggestions or recommendations made by the employee which resulted in taxpayer savings as a result of cost savings or greater efficiencies to the department, office or institution or to the state of Idaho in excess of the amount of the bonus. Exceptions to the one thousand dollar (\$1,000) limit provided in this subsection may be granted if approved in advance by the state board of examiners.

(9) Each appointing authority, including the elective offices in the executive department, the legislative department, the judicial department, and the state board of education and the board of regents, shall comply with all reporting requirements necessary to produce the list of employee positions prescribed by section 67-3519, Idaho Code.

(910) The adjutant general, with the approval of the governor, shall prescribe personnel policies for all officers and employees of the national guard which are not otherwise fixed by law. Such policies will include an employee grievance procedure with appeal to the adjutant general. The adjutant general shall determine schedules of salary and compensation which are, to the extent possible, comparable to the schedules used for federal civil service employees of the national guard and those employees serving in military status. Schedules adopted shall be compatible with the state's accounting system to the extent possible."

CORRECTIONS TO TITLE

On page 1, delete line 2 and insert: "RELATING TO COMPENSATION FOR"; in line 5, delete "TO THE DEPARTMENT OR TO" and delete line 6, and insert: "; AND AMENDING SECTION 59-1603, IDAHO CODE, TO PROVIDE FOR GRANTING OF BONUSES TO EMPLOYEES

FOR SUGGESTIONS OR RECOMMENDATIONS WHICH RESULTED IN COST SAVINGS OR GREATER EFFICIENCIES AND TO PROVIDE A CORRECT CODE REFERENCE."

SENATE AMENDMENT TO H 208

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 39, delete "pursuant to" and insert: "notwithstanding any provision to the contrary in".

SENATE AMENDMENT TO H 208

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 1, following "board" insert: "and to the water district"; and also in line 1, following "behal" insert: ", or on behalf of any district member who attends such meeting or proceeding and intends to vote on his own behalf. The board shall provide a verified list of the water rights that is represents at any water district proceeding or meeting to the chairman of the water district proceeding or meeting".

SENATE AMENDMENT TO S 1108, As Amended

AMENDMENTS TO SECTION 2

On page 2 of the engrossed bill, delete lines 43 through 46 and insert: "a contingent fee exceed thirty-three percent (33%) of the unpaid debt per account."

SENATE AMENDMENT TO H 195

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 10, delete "that pro-" and in line 11, delete "vided by section 59-509(g), Idaho Code" and insert: "~~that provided by section 59-509(g), Idaho Code~~ the sum of seventy-five dollars (\$75.00) per day".

The Committee also has **H 52** and **S 1090** under consideration, reports progress, and begs leave to sit again

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Malepeai, the report was adopted by voice vote.

S 1060, as amended, **S 1102**, as amended, **S 1010**, as amended, **S 1130**, as amended, and **S 1108**, as amended, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

H 113, as amended in the Senate, **H 208**, as amended in the Senate, and **H 195**, as amended in the Senate, were filed for first reading as amended and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:30 p.m. until the hour of 10:15 a.m., Wednesday, March 5, 2003.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary